

Order

**Michigan Supreme Court
Lansing, Michigan**

January 23, 2008

Clifford W. Taylor,
Chief Justice

ADM File No. 2006-10

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment of Rule 2.603
of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.603 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The notices and agendas for public hearings are posted on the Court's website, www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Deletions are indicated by strikethrough and insertions by underline.]

Rule 2.603 Default and Default Judgment

(A) [Unchanged.]

(B) Default Judgment.

(1) [Unchanged.]

(2) Default Judgment Entered by Clerk. On request of the plaintiff supported by an affidavit as to the amount due, the clerk may sign and enter a default judgment for that amount and costs against the defendant, if

(a) the plaintiff's claim against a defendant is for a sum certain or for a sum that can by computation be made certain;

- (b) the default was entered because the defendant failed to appear; and
- (c) the defaulted defendant is not an infant or incompetent person.

The clerk may not enter or record a default judgment based on a ~~note or other written evidence of indebtedness~~ negotiable instrument until the ~~note or writing~~ negotiable instrument is filed with the clerk for cancellation, except by special order of the court.

(3)-(4) [Unchanged.]

(C)-(E) [Unchanged.]

Staff Comment: This proposal would require that only negotiable instruments be filed with the clerk for cancellation when applying for a default judgment.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by May 1, 2008, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. All comments will be posted on the Court's website. When filing a comment, please refer to ADM File No. 2006-10.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 23, 2008

Corbin R. Davis
Clerk